

STATE OF NEW YORK

DIVISION OF TAX APPEALS

In the Matter of the Petition	:	
of	:	
GOLDLEX HOLDING COMPANY	:	ORDER
for Revision of a Determination or for Refund	:	DTA NO. 808940
of Tax on Gains Derived from Certain Real	:	
Property Transfers under Article 31-B of the	:	
Tax Law.	:	

Petitioner, by this motion, seeks an order pursuant to section 3000.5(a) of the Tax Appeals Tribunal Rules of Practice and Procedure for discovery.

The first segment of a hearing in this matter was commenced on October 20, 1992 at 1:15 P.M. at the offices of the Division of Tax Appeals, 500 Federal Street, Troy, New York. Subsequently, by correspondence received by the Administrative Law Judge on October 27, 1992, the Division of Taxation ("Division") formulated a request for certain documents from petitioner's representatives and outlined a sequence of informal procedures pursued by the Division for the purpose of obtaining documents it deems pertinent in this matter. Numerous attachments transferred between the parties were attached to such correspondence.

By correspondence dated October 29, 1992, the Administrative Law Judge deemed the Division's request as a motion for discovery and inspection and thereafter allowed petitioner's representatives until November 25, 1992 to respond to the Division's motion. Numerous pieces of correspondence were thereafter exchanged between the parties attempting to recount the request for certain documents and efforts to present them.

The Division seeks disclosure by petitioner of: (1) any agreements entered into by the Estate of Alexander DiLorenzo, Jr., Sol Goldman, the Estate of Sol Goldman, Irving Goldman, DiLorenzo Properties and Goldlex Holding Company that were completed after the July 26, 1982 agreement of Sol and Irving Goldman and before the November 22, 1988 termination agreement; and (2) documents which explain the dates that each of the subject properties were

titled as a matter of record in the name of Southern Associates, Inc.

Petitioner's response (see correspondence of November 6, 1992, ¶ 5) indicates that its representatives have no knowledge of any other agreements among the Goldlex partners after July 26, 1982 and before November 22, 1988. However, petitioner's representatives indicated that they would agree to make an additional search of their files for further agreements. With regard to the request for documents which explain the dates that each of the properties were titled in the name of Southern Associates, Inc., petitioner's representatives indicate that certain information will be presented through testimony at the continued hearing scheduled for this matter. However, petitioner's representatives have offered to commission a title company to prepare deed searches showing the dates on which Southern took title to the properties.

Although the Division's first request lacks specificity, petitioner has not objected to searching its files for documents executed by persons involved in this matter, the Estate of Alexander DiLorenzo, Jr., Sol Goldman, the Estate of Sol Goldman, Irving Goldman, DiLorenzo Properties and Goldlex Holding Company, that were executed during a certain time frame that could have some bearing in this case. Thus, petitioner is hereby ordered to do so. The Division's motion for discovery is also granted to the extent it requested documents regarding Southern Associates, Inc. Petitioner shall provide the results obtained from a title company who was to be employed to prepare deed searches showing the dates on which Southern took title to the properties. In addition, it is also ordered that petitioner produce any documents that it may have in its possession explaining the dates that such properties were titled in the name of Southern Associates, Inc.

Petitioner is directed to respond within 30 days of the date of this order. In the event petitioner is unable to do so, an explanation of reasonable cause shall be provided to the Administrative Law Judge by such date.

DATED: Troy, New York
December 17, 1992

/s/ Catherine M. Bennett

ADMINISTRATIVE LAW JUDGE